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STATE REGISTER

STATE OF MINNESOTA

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October 25, 1982

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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 7			
18	Monday Oct 18	Monday Oct 25	Monday Nov 1
19	Monday Oct 25	Monday Nov 1	Monday Nov 8
20	Monday Nov 1	Monday Nov 8	Monday Nov 15
21	Monday Nov 8	Monday Nov 15	Monday Nov 22

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the **MCAR AMENDMENTS AND ADDITIONS** list on the following schedule:

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PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
 2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
 3. of the manner in which persons shall request a hearing on the proposed rules;
- and
4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce Office of Consumer Services

Proposed Rules Governing the Practice of Cosmetology

Notice of Hearing

Notice is hereby given that a public hearing will be held pursuant to Minn. Stat. § 15.0412, subd. 4 (Supp. 1981) in the above-entitled matter in the State Office Building Auditorium, 435 Park Street, Saint Paul, Minnesota, on November 29, 1982, commencing at 9:00 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard, concerning adoption of the proposed rules captioned above, by submitting either oral or written

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing. Written comments may be submitted to Hearing Examiner Peter C. Erickson at the Office of Administrative Hearings, 400 Summit Bank Building, 310 South 4th Avenue, Minneapolis, Minnesota 55415. Public hearings on the proposed rules will also be held in the Duluth Public Library, 520 West Superior Street, Duluth, Minnesota 55802, on December 1, 1982, commencing at 9:00 a.m., and in the Minnesota Valley Regional Library, 100 East Main Street, Mankato, Minnesota 56001, on December 3, 1982, commencing at 9:00 a.m.

The director proposes to adopt rules relating to the following matters: Licensing requirements for individual licenses for cosmetologists, manicurists, estheticians and instructors; requirements for maintenance and renewal of such licenses; the administration of examinations for such licenses; general salon requirements and requirements for licensure; advertising; inspections; general school requirements and requirements for school licensure; school enrollment contracts; operational requirements for school clinics and school curricula; and fee schedules.

The authority to promulgate the proposed rules is contained in Minn. Stat. ch. 155A (1981 Supp.).

The rule hearing procedure is covered by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). Questions about the procedure may be directed to Hearing Examiner Peter C. Erickson at (612) 341-7606.

Lobbyists must register with the State Ethical Practices Board. A "lobbyist" is defined by Minn. Stat. § 10A.01, subd. 11 (1980):

"Lobbyist" means any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials;

(b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual while engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing, but only to the extent of preparing or delivering testimony;

(f) Stockholder of a family farm corporation as defined in section 500.24, subdivision 1, who does not spend over \$250, excluding *his own* travel expenses, in any year in communicating with public officials; or

(g) Party or his representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim.

Any questions should be directed to the State Ethical Practices Board, Room 41, State Office Building, 435 Park Street, Saint Paul, Minnesota 55155 (Tel. 612-296-5148).

Written material may be submitted and recorded in the hearing record for five working days after the public hearing ends, or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner.

Notice: Any person may request notification of the date on which the hearing examiner's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the hearing examiner's report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at

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the agency and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

One free copy of this notice and the proposed rules may be obtained by contacting Ailie Norlin, 128 Metro Square Building, Seventh and Robert Streets, Saint Paul, Minnesota 55101, (612) 296-8458. Additional copies will be available at the door on the date of the hearing.

October 11th, 1982.

Kris Sanda, Director
Office of Consumer Services

Rules as Proposed (all new material)

4 MCAR § 10.100 Definitions.

A. Application. For the purposes of 4 MCAR §§ 10.100-10.143, the terms defined in this rule have the meanings given them, unless their context clearly requires otherwise.

B. Accommodate. "Accommodate" or "to be accommodated" means the maximum number of students present on the school premises at any one time for which the school has the required physical and program resources. In most cases this will be the maximum number of day student enrollees.

C. Advanced training. "Advanced training" means instruction conducted by a recognized expert in the field, offered to licensed individuals for the purpose of providing information or skills supplemental to that required for initial licensure.

D. Advertising. "Advertising" means any written or graphic representation designed to elicit enrollment or the sale of goods or services and includes signs, displays, circulars, brochures, and recruitment materials.

E. Application of artificial nails. "Application of artificial nails" includes the application, construction, and repair of sculptured nails, of nail tips, and nail wrapping.

F. Beauty coloring product. "Beauty coloring product" means foundation color, skin tints, eye color, mascara, eye liner, eyebrow color, and lip color.

G. Booth license. A "booth license" is an authorization to lease and independently operate a work station in a licensed salon.

H. Clean. "Clean" means free from all soil and dirt, washed with soap or detergent and hot water.

I. Clinic. "Clinic" means the portion of a cosmetology school where cosmetology services are offered to the public and which are performed by students and for which compensation is given.

J. Communicable disease. "Communicable disease" means a contagious or infectious disease or condition.

K. Community education. "Community education" means a program of personal grooming, taught by a licensed cosmetologist, manicurist, or esthetician of less than ten hours duration, offered on a periodic basis.

L. Compensation. "Compensation" means a monetary or nonmonetary remuneration for services.

M. Demonstration. "Demonstration" means a presentation of less than eight hours duration, conducted by a recognized expert in the field, for the purposes of training cosmetology students or specialization by current licensees. The same demonstration may be repeated successive times which total more than eight hours. Demonstrations pursuant to nonretail sales are not covered by this definition or these rules.

N. Documentation. "Documentation" means a signed, notarized statement attesting the truth of the facts stated in it.

O. Evidence. "Evidence" means written proof.

P. Good repair. "Good repair" means that a thing is clean, with no holes, frayed wires, or tears in coverings, and fully operational for the purpose intended.

Q. Licensed services. "Licensed services" means those services defined as the practice of cosmetology under Minnesota

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Statutes, chapter 155A.03, subdivision 2 and includes the fitting of wigs and hair pieces on the head and the dressing of wigs and hair pieces while on the head.

R. Office. "Office" means the Office of Consumer Services.

S. Retail sale. "Retail sale" means a sale directly to unlicensed individuals.

T. Staff. "Staff" means the personnel of the cosmetology unit, Office of Consumer Services.

U. Unlicensed service. "Unlicensed service" means those services not defined as the practice of cosmetology under Minnesota Statutes, chapter 155A.03, subdivision 2 and includes ear piercing, body wrapping, depilation, tattooing, artificial tanning of the skin; personal services incidental to performance in theatrical or musical productions or media appearances; any personal services performed incidental to mortuary practice; and massage services.

V. Wet disinfectant. "Wet disinfectant" means a nonporous receptacle containing a disinfectant solution.

4 MCAR § 10.101 Transfer of license prohibited. Licenses shall not be transferable and shall be used only by the named licensee.

4 MCAR § 10.102 Requirements for obtaining individual licenses.

A. General requirements.

1. Applications for licensure shall be made in writing and contain the requirements of 2.-6.

2. The applicant shall provide evidence of completion of high school or a General Educational Development certificate.

3. The applicant shall provide written evidence on a standardized form, from a physician, dated within one year, that he or she is free from all communicable diseases and parasites.

4. The applicant shall demonstrate by examination minimal skills and knowledge necessary for the license sought. The applicant shall successfully complete a written examination demonstrating knowledge of professional, health, and safety methods and procedures and knowledge of Minnesota Statutes and rules pertinent to the practice of cosmetology at the level of the license sought.

5. The applicant shall attach to the application a two-inch by two-inch photograph taken within the past year.

6. The applicant shall pay the required examination and license fees. Applicants whose professional training is documented under the provisions of B.2.-3. and E. shall also pay the processing fee.

B. Requirements for a cosmetologist, manicurist, and esthetician. In addition to the requirements of A., the applicant shall provide documentation of having obtained the following professional training, within three years prior to this application:

1. successful completion of a full course of training in a Minnesota licensed school of cosmetology, as indicated by documentation from the school, of at least 1550 hours for a cosmetologist, 350 hours for a manicurist, and 600 hours for an esthetician. The documentation shall include a certification of skills; or

2. successful completion, as documented by the school and including a certification of skills, of a full course of training of at least the same number of hours in a state other than Minnesota. If an applicant has received training in another state, but has not completed that state's prescribed course of training, or if that course is less than the number of hours required by this rule, completion of training and certification of skills in a Minnesota school shall be attained. The applicant shall receive credit for all hours of training earned in the non-Minnesota school. He or she shall then attend a Minnesota school until the required number of hours has been completed; or

3. current licensure from another state, District of Columbia, territory, or country. A copy of the current license or a certified statement from the licensing body that the applicant is currently licensed shall be attached to the application. If the other jurisdiction does not issue a license, the applicant shall provide documentation of lawful practice for at least 1800 hours within three years prior to the application. Applicants claiming training and experience in a foreign country shall supply official English language transcripts of all documentation and evidence submitted to the office.

C. Requirement for a manager. In addition to the requirements of A., the applicant shall provide documentation of a current Minnesota cosmetologist or manicurist license, and at least 2700 hours of licensed practice, in a licensed salon and supervised by a licensed manager, within the three years prior to this application. An individual wishing to manage a school shall also successfully complete an examination covering Minnesota laws and rules related to schools. The applicant shall pay the processing fee.

D. Requirements for an instructor. In addition to the requirements of A., the applicant shall pay a processing fee and shall successfully complete a practical examination demonstrating teaching skills and techniques as related to the instruction of cosmetology practices and provide documentation of:

1. successful graduation from a licensed school of cosmetology;

2. successful completion of at least 48 hours of training in a program or programs approved by the office and which will provide the knowledge and skills necessary to instruct in the field of cosmetology;
3. a current Minnesota cosmetologist, manicurist, or esthetician license; and
4. at least 1800 hours of experience as a licensed cosmetologist, manicurist, or esthetician in Minnesota in a Minnesota licensed salon, supervised by a licensed manager, within the three years prior to this application.

Individuals whose practitioner license is as manicurist or esthetician shall be restricted to instruction in the area of their practitioner license only.

E. Reactivation of license. An individual who has an "inactive" Minnesota license and/or whose most recent active license has expired by more than three years who wishes to resume the practice of cosmetology shall document completion of a refresher program of a minimum of 155 hours for a cosmetologist, 60 hours for an esthetician, or 35 hours for a manicurist in a licensed Minnesota school of cosmetology. The documentation shall include a certification of skills.

4 MCAR § 10.103 Requirements for obtaining a license on the basis of reciprocity.

A. License issued. A license shall be issued to an individual applying from another jurisdiction if the requirements of B.-D. are met.

B. Compliance with state rules. The applicant shall demonstrate compliance with 4 MCAR § 10.102 A.2.-6.

C. Evidence of experience. The applicant shall provide documentation of at least 1800 hours of experience as a licensed practitioner at the level for which a Minnesota license is sought within three years prior to the application. The documentation must be from an employer or, in the case of self-employed applicants, from a reliable source.

D. Specific requirements for instructor. An applicant for an instructor's license shall provide evidence of 48 hours of training comparable to the requirement of 4 MCAR § 10.102 D.2., and 1800 hours of licensed or lawful practice as a cosmetologist, manicurist, or esthetician in a salon.

4 MCAR § 10.104 Requirements for maintenance of individual license.

A. Compliance with applicable law. The licensee shall continuously comply with all applicable provisions of Minnesota Statutes and rules.

B. Health requirements. The licensee shall continue to be free from communicable diseases and parasites.

C. Change of name or address. The licensee shall advise the office of a change of name or address in writing, including both new and old name and address, within 30 days of the change, and pay the duplicate license fee.

D. Renewal. The licensee shall renew the license as required by 4 MCAR § 10.105 prior to its expiration date.

E. Display of license. The licensee shall post his or her license as required by 4 MCAR § 10.116 A.18.a.

F. Additional requirements for manager. In addition to the requirements of A.-E., the manager shall ensure that all salon or school personnel comply with all applicable statutes and rules, and that the salon or school which he or she manages is in compliance with all applicable statutes and rules.

G. Additional requirements for instructor. In addition to the requirements of A.-E., the instructor shall carry out the curriculum of the school, as approved by the office, preparing students for licensure under the laws of Minnesota.

4 MCAR § 10.105 License renewal for individuals.

A. Application. The licensee shall submit a written renewal application request before his or her current license expires. This may be accomplished on the license renewal notice form provided by the office. However, if this renewal notice is not received, the licensee is still responsible for timely renewal.

B. Practical and educational requirements. The licensee shall establish that his or her knowledge and skills are up to date, by meeting the following requirements no later than the expiration of his or her current license:

1. a cosmetologist, manicurist, esthetician, or manager shall provide documentation of having either practiced in a licensed salon, or school for school managers, for at least 1800 hours within the three years prior to the license expiration, or successfully completed an approved refresher course, of at least 40 hours, within the three years prior to the license expiration;

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2. an instructor shall pay the processing fee and shall provide evidence of having successfully completed 45 hours of continuing education approved by the office, including at least 15 hours of teaching-related material and 15 hours related to analysis and use of professional clinical products;

3. a salon manager shall pay the examination fee and shall successfully pass a written examination covering Minnesota laws and rules pertinent to cosmetology salons prior to license renewal;

4. a school manager shall pay the examination fee and shall pass a written examination covering Minnesota laws and rules pertinent to cosmetology schools and salons prior to license renewal.

C. Fee. The licensee shall pay the required license fee before the expiration of the current license.

D. Health examination. The licensee shall provide evidence on a standardized form from a physician that he or she is free from communicable diseases and parasites.

E. Method of determining timely renewal. The postmark date on the transmittal envelope of the renewal request and fee shall be determinative in ascertaining whether receipt was prior to the current license expiration date.

F. An applicant who has ceased all practice of cosmetology and who wishes to receive an inactive license shall meet the requirements of A., C., and E. An inactive license shall not authorize any individual to engage in the practice of cosmetology as defined in Minnesota Statutes, chapter 155A.03, subdivision 2.

4 MCAR § 10.106 Lapsed practitioner license.

A. Failure to renew. Failure to renew a practitioner license prior to its expiration date results in a lapsed license. The applicant shall comply with the requirements of 4 MCAR § 10.105 B. and D., and:

1. if fewer than 30 days have elapsed since the license expiration, the applicant shall submit a written application for renewal of license, the license fee, and the late penalty;

2. if more than 30 days have elapsed, the individual shall not practice cosmetology until he or she has applied for and received a new license in accordance with the provisions of 4 MCAR § 10.102.

B. Procedure for inactive licensee. If a licensee has not actively practiced cosmetology during the period of 30 days to three years after expiration of the license, he or she shall be reissued a license after submission of an affidavit attesting to the fact that the applicant has not practiced cosmetology since the expiration date, payment of the license fee, and payment of the processing fee. If more than three years have elapsed, the applicant shall apply for a new license in accordance with the provisions of 4 MCAR § 10.102.

C. Penalty. The manager of a salon or school shall pay a penalty of \$25 for each licensee whose license is past the expiration date and who is practicing in the salon or school.

4 MCAR § 10.107 Retail sales.

It is not a violation of Minnesota Statutes, chapter 155A or these rules for an individual to demonstrate the application of a beauty coloring product, incidental to the original retail selling efforts for the product, if:

1. the individual is employed by a manufacturer, wholesaler, retailer, or distributor;

2. the individual has received a minimum of 16 hours of color application, safety, and sanitation training before conducting any application demonstrations on the public in accordance with Minnesota law;

3. the store in which the individual is employed shall maintain documentation of training;

4. appropriate sanitation procedures are followed:

a. purchasers themselves apply disposable headbands or other disposable items to secure their hair if necessary for the demonstration;

b. applicators for the products are either disinfected or disposed of after each purchaser;

c. the individual who is demonstrating the products cleanses his or her hands immediately before each application;

d. a used disposable towelette is thrown away or a clean towel is used for each hand cleansing; and

e. an appropriate receptacle is used for the disposal of items; and

5. no direct skin-contact application of the product is performed on a purchaser or potential purchaser except by the purchaser.

In the alternative, if the product is applied only to a model who is also employed as part of the sales process, then the product application is not violative of Minnesota Statutes, chapter 155A and these rules.

4 MCAR § 10.108 Examination administration.

A. Schedules and sites. Examination schedules and sites shall be determined by the office.

B. School to provide exam space. Each school shall make space available on its premises for the performance of the licensing examinations upon request by the office, if the request is reasonable and timely.

C. Instructor examination.

1. The office shall have access to the clinic area of a licensed school no more than once per year and to licensed instructors no more than twice per year for assistance in conducting the practical examination for instructors.

2. Each examinee is responsible for providing his or her own model for the practical examination and shall be responsible for insuring the suitability of that model for the examination. Models shall be over 16 years of age and shall be required to sign a waiver releasing the office, the examiners, the host school, and the examinee of all professional liability. The model shall not be a licensed cosmetologist or a cosmetology student.

D. Reexam limit. No license applicant may take an exam more than three times in 12 months. No passing score shall be considered valid for more than 12 months.

E. Exam administered in English. Examinations shall be administered and conducted in English without an interpreter or reader.

4 MCAR § 10.109 Reinstatement after denial, suspension, revocation of license.

An applicant shall have a license reinstated for the remainder of its unexpired term or shall be relicensed in the following circumstances:

A. after suspension of license, by meeting the following requirements:

1. the applicant shall provide documentation of the correction or elimination of the grounds for the suspension;
2. the applicant shall make application for reinstatement of license, in writing and on forms supplied by the office;
3. the applicant shall pay the reinstatement fee;

4. if the suspended license has expired by no more than 30 days, an individual applicant shall comply with 4 MCAR § 10.105 B.-D.; a salon shall comply with 4 MCAR § 10.120; and a school shall comply with 4 MCAR § 10.135;

B. after revocation or if the suspended license has expired by more than 30 days, by meeting the following requirements:

1. the applicant shall provide documentation of the correction or elimination of the grounds for the revocation;
2. the applicant shall make application for relicensure, in writing and on forms provided by the office as if no license had been previously issued;
3. the applicant shall pay the reinstatement fee and the license fee; and
4. the applicant shall meet the requirements for initial licensure.

4 MCAR § 10.110 General salon requirements.

A. Location. No cosmetology service shall be provided in a place other than a licensed cosmetology salon, manicurist salon, cosmetology school, or as otherwise provided by these rules.

B. License requirement. No salon shall operate without a license.

C. Employment of unlicensed persons. No salon shall employ or allow unlicensed persons to perform any cosmetology service.

D. Termination of license. A salon license shall not be transferable and shall terminate upon the occurrence of a change of either ownership or location. The old license shall be returned to the office and an application for a new license shall be made in the same manner as if no license had been issued previously.

E. Change of name. The salon manager or owner shall inform the office in writing, within 30 days, of a name change, including old and new name, and pay the processing fee. A license will be issued in the new name for the remaining term of the old license. The old license shall be returned to the office upon receipt of the license in the new name.

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4 MCAR § 10.111 Requirements for salon licensure.

A. General requirements for all salon licenses. The requirements of 4 MCAR §§ 10.111-10.115, 10.117, and 10.118 shall be met by all applicants proposing to establish a salon. Upon compliance, the office will issue a provisional license which will enable the salon to open for business. The salon's compliance with all applicable provisions of Minnesota Statutes, chapter 155A and these rules shall be confirmed by an operational inspection by the office staff. A permanent license for the balance of the three-year license cycle shall be issued upon confirmation of the salon's compliance.

B. Application. The person, association, firm, or corporation proposing to establish a cosmetology or manicure salon shall apply in writing to the office, on forms supplied by the office, giving the following information:

1. the name of the salon, its address, and names and addresses of all owners and controlling officers;
2. notarized signatures;
3. the days of the week and the hours which the salon will be open;
4. evidence of the salon's compliance with local fire, zoning, health, and building codes, or in the absence of local codes, with the corresponding state codes;
5. the name of the licensed manager who will be employed by the salon, including that individual's license number and its expiration date; and
6. a floor plan of the salon, drawn to scale on $8\frac{1}{2}'' \times 11''$ or $8\frac{1}{2}'' \times 14''$ paper, providing the dimensions of the salon as a whole and designating the size and location of all entrances and exits, and indicating the location and dimensions of all required areas, facilities, and equipment.

C. Evidence of liability insurance. The applicant shall provide evidence of the salon's coverage by professional liability insurance, of at least \$25,000 for each claim and \$50,000 total coverage for each policy year for each operator.

D. Evidence of worker's compensation insurance. The applicant shall provide evidence of his or her compliance with Minnesota Statutes, section 176.182.

E. Payment of fee. The applicant shall pay the license and processing fee.

4 MCAR § 10.112 Applicability of requirements for salon license.

The provisions of 4 MCAR §§ 10.110-10.121 apply to both cosmetology and manicure salons, except for 4 MCAR §§ 10.113 E.2., 10.114 B.-C., 10.115 A., and 10.116 A.1.-3., A.7., and A.12, which do not apply to manicure salons.

4 MCAR § 10.113 Physical requirements.

A. Space.

1. There shall be at least 120 square feet of work space exclusive of any restroom, reception, or supply area for a one-practitioner cosmetology salon, and 100 square feet of work space for a one-practitioner manicure salon.

2. There shall be at least 50 additional square feet of work space for each additional licensee simultaneously on duty in a cosmetology salon, and at least 35 additional square feet of work space of each additional licensee simultaneously on duty in a manicure salon.

3. The supply area shall not be accessible to the public.

B. Entrance and exits. Each salon shall have at least two entrance/exit points which shall comply with state fire code requirements and local building code requirements. A salon located in a basement may have a window for one of its two exits.

C. Walls and ceilings. All walls and ceilings shall be kept clean and in good repair at all times, free from crevices, cracks, or holes which could collect dirt.

D. Floors.

1. All floors shall be kept clean and free from hair and other debris at all times and shall be in good repair, free from crevices, cracks, holes, or tears which could collect dirt or hair.

2. Carpet shall not be an acceptable floor covering unless it is commercial grade carpet.

E. Lighting and electricity.

1. Each salon shall provide direct lighting to all work areas. Light fixtures shall be clean and dust-free.

2. There shall be at least one electrical outlet in each work station.

F. Plumbing, water supply.

1. All plumbing fixtures shall be of impervious material, and installed in accordance with local plumbing ordinances, and shall not constitute a cross-connection.

2. There shall be clean, hot, and sanitary running water provided in the work area, dispensary area, and toilet facilities.

3. Each salon shall provide adequate toilet facilities, on its premises or in an adjacent common area, which are used for no other purpose. The toilet facilities shall comply with the requirements of the state building code and the Occupational Safety and Health Administration. The door shall be kept closed at all times or the rest room shall be screened from view.

G. Ventilation. Salon ventilation shall comply with the requirements of the state building code. Window ventilation shall not be acceptable as a method of meeting the standard.

4 MCAR § 10.114 Fixtures, furniture, and equipment.

A salon shall meet the following minimum requirements:

- A. there shall be a work station with chair, storage space, and mirror assigned to each licensee on duty;
- B. there shall be at least one shampoo bowl in good repair and operational for each six work stations;
- C. there shall be at least one standard or hand-held blow dryer hair dryer in good repair; clean and operational for each six work stations;
- D. there shall be at least one nonporous wet disinfecter large enough to completely immerse all items to be disinfected;
- E. all furniture shall have a washable covering or finish and shall at all times be kept clean and in good repair;
- F. there shall be a waste receptacle at each work station. This receptacle shall be emptied at least daily. It shall be lined with a disposable plastic bag or liner, or washed daily.

There shall be at least one covered metal container which shall be used exclusively as a receptacle for soiled towels and linen. It shall be kept closed at all times.

There shall be at least one large covered metal container for disposal of garbage. This container shall be emptied at intervals necessary to maintain cleanliness. The container shall be lined with a disposable plastic bag or liner, or be washed daily;

G. there shall be storage cabinets for all clean linen and towels. They shall be equipped with tight-fitting closable doors, which shall be kept closed;

H. there shall be storage space for all supplies. Supplies which contain any caustic or other harmful material shall be conspicuously labeled and kept inaccessible to clients;

I. each salon shall maintain a readily accessible first aid kit;

J. each salon shall have at least one readily accessible fire extinguisher which complies with state fire code requirements. All employees shall be instructed in the location and use of the fire extinguisher; and

K. emergency telephone numbers shall be posted next to the telephone at the reception desk.

4 MCAR § 10.115 Supplies and materials.

A salon shall meet the following minimum requirements:

- A. brush rollers shall not be allowed; and
- B. there shall be at least two dozen clean towels per operator per day.

4 MCAR § 10.116 Operational requirements for salons.

A. Operational requirements. It is the responsibility of the manager of the salon and of each operator to comply with the following operational requirements:

- 1. each licensee shall maintain an adequate supply of clean and disinfected brushes, combs, and other implements and tools for use on his or her patrons. The licensee shall have at least 12 combs and 12 brushes;
- 2. all combs and brushes shall be cleaned and disinfected after use on each person. Hair shall be removed from all implements before disinfecting;
- 3. rollers, pins, clippies, hairnets, shears, razors, and all other hairdressing tools shall be cleaned thoroughly and

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disinfected at a minimum of once per week. These items shall be stored in a clean, closed container or be covered with a clean towel until reused;

4. clean linens and protective papers shall be used for each person. A clean towel shall be placed on the head rest of the facial chair before any person reclines in that chair. A clean towel shall be placed between the client's head and the shampoo bowl during shampooing. A paper strip or clean towel shall be placed completely around the neck of each client before any apron or hair cloth or any other protective covering is fastened around the neck;

5. all fluids, semi-fluids, creams, and powders shall be kept in clean covered containers and shall be dispensed with a clean disinfected spatula or from a shaker or pump or spray dispenser. Spatulas made of nonabsorbent material may be disinfected and reused; wooden spatulas shall be discarded after each use. Gauze or cotton applicators shall be discarded after each use. Waving fluids shall be dispensed from suitable containers, in a manner which prevents contamination of unused fluid. All containers shall be covered when not in use;

6. all bottles and containers shall be correctly and clearly labeled to disclose their contents. Poisonous substances shall be clearly and conspicuously marked;

7. permanent waving end papers and neck strips shall not be reused. All permanent wave rods and supplies shall be washed thoroughly after use on each client and shall be stored in clean, closed containers or covered by a clean towel when not in use;

8. all electrical tools and implements shall be kept on stands or hangers or otherwise be stored properly when not in use. One six-foot grounded heavy-duty extension cord may be used in a work station if necessary to service a client with an implement actually in use. The extension cord shall not extend beyond the area of the work station;

9. all clean towels, robes, and linen shall be stored in a clean, closed cabinet until used. The cabinet shall be made of a solid, completely closed material;

10. each towel, robe, and linen shall be used only once and then be properly laundered. After use and until laundering, each item shall be placed in the required metal receptacle, which shall be kept covered. All soiled towels and linens shall be laundered in washing machines with laundry detergent, in water of a temperature of at least 160 degrees Fahrenheit. Commercial laundering is acceptable;

11. The procedures contained in a.-g. shall be used to disinfect items.

a. All hair shall be removed before disinfection.

b. Each item shall be washed in hot water with soap or detergent and rinsed thoroughly with hot water.

c. Each item shall be immersed for at least ten minutes in a disinfectant solution comprised of the following: sodium hypochlorite (200 ppm of available chlorine); or iodophor germicidal detergent (200 ppm of available iodine); or quaternary ammonium germicidal detergent solution (200 ppm); or 70 percent ethyl alcohol or 95 percent isopropyl alcohol.

d. Metal implements and tools shall be disinfected by immersion in a solution of 70 percent ethyl alcohol or 95 percent isopropyl alcohol.

e. Items to be air dried shall not be rinsed after disinfection.

f. Each item shall be stored until used in a clean, closed container, drawer, or cabinet, or under a clean towel.

g. Used items and disinfected items shall not be stored in the same container, drawer, or cabinet.

12. wig blocks shall have a nonabsorbent covering which shall be kept clean and sanitary. Each nonabsorbent covering shall be removed after each servicing of the wig and shall be placed in a properly labeled container. Each wig accepted for service shall be stored in an individual sanitary receptacle such as a plastic bag and shall not be allowed to come into contact with any other wigs. New wigs shall not be allowed to come into contact with any client's hair, skin, or wig. Plastic wrap or other suitable covering material shall be placed over a prospective buyer's hair while trying on wigs;

13. each licensee on duty shall be assigned to a specific work station;

14. the licensee shall wash his or her hands with soap and hot water before any service to a new patron. Fingernails shall be kept clean;

15.

a. each licensee shall be responsible for the order, cleanliness, and sanitation of his or her work station and all equipment and materials used;

b. each licensee shall be responsible for using only clean and properly disinfected implements when providing any service;

c. each licensee shall ensure that all hair is removed from the floor after each haircut;

- d. each licensee shall clean up any spills of water or other liquid from the floor immediately;
- e. each licensee shall remove all hair and rinse the shampoo bowl immediately after each use;

16.

- a. each licensee shall be clean and shall wear clean clothing and shoes;
- b. each licensee shall be free from communicable diseases and parasites when performing services on any client;
- c. licensees shall not smoke, eat, or drink while performing any services;
- d. licensees shall not carry combs or other implements in the pockets of clothing;

17. services shall not knowingly be performed on any person who has a communicable disease, condition, or parasites;

18.

a. current licenses of salon personnel shall be conspicuously posted at approximately eye level in the reception area or in each licensee's assigned work station. The licensee's street address may be obliterated with tape, but name and town must remain unobstructed. A two-inch by two-inch photograph of the licensee, alone, taken within the last three years, shall be attached to each license. If the license is at the reception area, the licensee's name and type of license held shall be posted at the work station;

b. the current shop license, a copy of the salon's most recent inspection report, and the salon rules shall be conspicuously posted together in the reception area at approximately eye level;

19. no animals, birds, or pets shall be allowed in a salon. This excludes guide dogs;

20. if a salon receives compensation for child care services, the following requirements shall be met:

a. the unlicensed service shall be identified in compliance with 4 MCAR § 10.122;

b. the child care activities shall be contained in a room separated from the salon. The square footage of this room shall not be included in the required minimum square footage for the salon;

c. an individual shall be hired to attend the children at all times and shall not simultaneously be responsible for the performance of any cosmetology services.

B. Salon supervision.

1. There shall be a manager responsible for each salon at all times.

2. Only one person shall be designated as manager for each salon. No manager may be concurrently responsible for more than one salon. When the manager is not on duty, he or she may specify a responsible person in his or her absence.

3. The manager shall ensure that all licensees under his or her supervision comply with all provisions of these rules and Minnesota Statutes, chapter 155A.

4. The manager shall ensure that no unlicensed individual provides any cosmetology service in the salon.

5. The manager shall maintain, on the salon premises, the work hour records of each employee, as required by Minnesota Statutes, section 177.30.

6. The manager shall ensure that all equipment required by these rules is operational and maintained in proper working condition, that adequate supplies are in stock at all times, and that sanitation and safety requirements are met.

4 MCAR § 10.117 Additional requirements for specific types of salon licenses.

In addition to the requirements of 4 MCAR §§ 10.113-10.116, the requirements contained in A.-E. shall be met.

A. Beauty salon and barber shop. A beauty salon and a barber shop may be operated in the same establishment, if the beauty salon occupies a physically separate area comprised of continuous footage, and is clearly identified as a beauty salon by a conspicuously displayed sign which states, "Beauty Salon" in letters at least two inches in height.

B. Esthetician services. Esthetician services shall be provided only in a licensed cosmetology salon. Esthetician services shall not be offered in a manicurist salon.

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C. Mobile salons.

1. Mobile homes, motor homes, trailers, or any type of recreational vehicle which contains a beauty salon shall be permanently stationed at one location.

2. Salons in a vehicle which moves from one location to another shall not be allowed.

D. Licensed health care facilities.

1. It is not necessary for a licensed health care facility to have a licensed salon in order for nursing and patient care personnel or volunteers to wash, set, or trim residents' hair.

2. Licensed operators with certificates of identification may provide cosmetology services to residents.

3. If the licensed health care facility chooses to have a licensed salon on the premises, all the requirements for a salon must be met.

E. Salons in private residences. Salons may be established in private residences, if the following conditions are met:

1. the salon shall not be used for any residential purposes at any time;

2. the salon shall be completely separated from the residential areas. There shall be a permanent, solid partition, from floor to ceiling, between the salon and the residential areas. Any door in this partition shall be kept closed at all times;

3. the salon entrance/exit shall not lead through any residential area or through a garage;

4. all cosmetology services offered by the salon shall be available within the salon;

5. laundry tubs shall not be used as shampoo bowls; and

6. the residential toilet facilities shall not be used for salon clients.

4 MCAR § 10.118 Requirements for a booth license.

A Minnesota licensed cosmetologist or manicurist manager may lease work space from a licensed salon and operate that space as an independent business upon obtaining a booth license. An applicant for a booth license shall meet the following requirements:

A. the applicant shall hold a current Minnesota manager license;

B. the applicant shall provide documentation of leased work space from a licensed Minnesota salon. The work space shall be at least 50 square feet for a cosmetologist or 35 square feet for a manicurist. The lease shall include provisions regarding responsibility for keeping records of hours worked by the booth licensee, maintenance responsibilities of the booth licensee, use of salon equipment, purchase of supplies, professional liability insurance coverage, and other agreements reached by the parties;

C. the applicant shall provide evidence of coverage by professional liability insurance in the amount required for salon licensees. It shall be acceptable for the salon owner's professional liability policy to cover the booth licensee;

D. the applicant shall be responsible for operating his or her work space in full compliance with these rules.

4 MCAR § 10.119 Requirements for maintaining a salon or booth license.

The following requirements shall be met by all salons and booths:

A. the licensee shall continuously comply with all applicable provisions of Minnesota Statutes and rules;

B. the manager shall advise the office of a change in name of the salon in writing, including both new and old name and address, within 30 days of the change;

C. the licensee shall renew the license prior to its expiration date;

D. the licensee shall display the required documents.

4 MCAR § 10.120 Salon license renewal.

A. Requirements. The requirements of B.-G. shall be met in order to renew a license.

B. Request for renewal. The licensee shall be responsible for requesting renewal of his or her salon license, in writing, before the license expires. This may be accomplished on the license renewal notice form provided by the office. However, if this renewal notice is not received, responsibility for proper and timely renewal remains with the licensee.

C. Liability insurance coverage. The licensee shall provide evidence of continued professional liability insurance coverage in the required amount.

D. Worker's compensation insurance coverage. The licensee shall provide evidence of continued compliance with Minnesota Statutes, section 176.182.

E. Fee. The licensee shall pay the required license fee before the expiration of the current license.

F. Timely renewal. The postmark date on the transmittal envelope of the renewal request and fee shall be determinative in ascertaining whether receipt was prior to the current license expiration date.

G. Identity of manager. The licensee shall state the name of the salon manager and the number and expiration date of his or her license.

4 MCAR § 10.121 Delinquent salon licenses.

A. Failure to renew. Failure to renew a license prior to its expiration date shall result in a delinquent salon license. This license must be renewed within 30 days.

B. Renewal. If less than 30 days have elapsed since the expiration date of the license, the applicant shall submit a written application for renewal of license, the license fee, and the required late penalty. If more than 30 days have elapsed, the salon shall cease operation until a new salon application has been submitted and a provisional license has been issued.

4 MCAR § 10.122 Unlicensed services.

A. Disclosure. All services not licensed as the practice of cosmetology offered within a salon or school clinic shall be clearly identified as "unlicensed services" and listed on a sign conspicuously posted in the reception area. The sign shall contain lettering at least two inches high and shall state: "The following services offered by (salon or school name) are not licensed by the state of Minnesota:

.....
.....
....."

B. Disclosure of courses relating to unlicensed services. Each school shall clearly identify those courses and clinical experiences in its curriculum which are not required by the office and which pertain to services not licensed by the state. These courses shall be clearly identified in all recruitment advertising and written material used for the purposes of soliciting prospective students.

Nonrequired courses and unlicensed services shall be conspicuously identified in all written material, in type of the same size as the course or service name.

Instructional time and clinical experience in unlicensed services shall not be included in the minimum hours of schooling required for licensure.

4 MCAR § 10.123 Advertising.

The following provisions govern all advertising relating to the education, licensing, or practice of cosmetology:

A. all advertising shall comply with Minnesota Statutes, sections 325F.67 to 325F.70 and related rules;

B. no advertisement shall state or imply favorable consideration by the Office of Consumer Services other than to state that the salon or school is licensed by the office;

C. any advertisement that a salon or school is licensed by the state of Minnesota shall specify the type of license held and the license number;

D. no salon or school advertisement stating licensure by the state of Minnesota shall include reference to any unlicensed services;

E. a school advertisement of cosmetology services shall clearly and conspicuously state that all services are performed by students, in boldface type of the same size as the most-used type size in the ad;

F. no school may advertise that its students will earn a commission, salary, or pay of any kind, other than gratuities, on cosmetology services performed in the school clinic.

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4 MCAR § 10.124 Inspections.

A. Office staff to conduct. Salons and schools shall be inspected by the office staff. Advance notice of inspections shall not be given.

B. Grading. Inspectors shall grade items "S" for compliance with Minnesota Statutes, chapter 155A and these rules and "U" for noncompliance.

All items graded "U" shall be corrected within ten business days, and written notification of the correction shall be sent to the office within that time.

Failure to correct a noncompliance item may be grounds for suspension or revocation of the salon or school license, and of the individual license of the manager and the cosmetologist, manicurist, esthetician, or instructor involved.

C. Information on business hours and location. Each salon owner shall provide the office with:

1. an accurate schedule of the hours which the salon is open for business. If the salon is open by appointment only, the salon owner shall designate one-half day a month when he or she shall be available at the salon for inspection of the salon;

2. for country shops, a detailed map indicating the salon's exact location and directions for driving to that salon.

D. Cost and frequency of inspections. Each cosmetology salon and school shall be inspected annually. Additional inspections may be made as necessary to confirm correction of previous noncompliance. The cost of the annual inspection shall be included in the licensing fee. The cost of additional inspections to confirm correction of previous noncompliance shall be assessed to the school.

E. Results. Inspectors shall discuss the results of the inspection at its conclusion, in private, with the salon or school owner, manager, or a responsible person so designated in writing by the manager. A written report shall also be given or sent to the manager.

4 MCAR § 10.125 General requirements for schools.

A. Location where services taught. No cosmetology instruction shall be given in any place other than a licensed school of cosmetology or as otherwise provided in these rules.

B. License required. No cosmetology school shall be permitted to operate without a license.

C. Employment of licensed instructors. No cosmetology school shall employ an instructor who does not hold a current Minnesota cosmetology instructor license. A school may use occasional guest instructors or lecturers who do not hold a cosmetology license to provide supplemental information to students from related fields, such as medicine, public relations, or law.

D. Termination. A school license is nontransferable and shall terminate upon the occurrence of either of the following:

1. a change of ownership of the school. The new owner shall apply for a new school license in the same manner as if no license had been previously issued, at least 30 days before the effective date of the change; or

2. a change of location. An application for a new license shall be made in the same manner as if no license had been previously issued.

E. Change of name. The school owner or manager shall inform the office of a name change, in writing, 30 days before the effective date of the change and pay the school name change fee. A license will be issued in the new name for the unexpired term of the old license, which shall be returned to the office upon receipt of the license in the new name.

F. Separation of school from business.

1. Any cosmetology salon owned or operated by a school owner shall be operated as a separate and distinct business.

2. There shall be complete physical separation between the salon and school.

3. Salon and school shall have separate managers.

4. There shall be separate and clearly identified and differentiated entrances and telephone numbers for salon and school.

5. Salon employees shall not teach in the school unless they are licensed instructors included on the school staff roster.

6. No customer work may be done by an instructor in the salon during instructional hours stated on the school roster.

7. Each facility shall maintain the stock of supplies necessary for its operation.

G. Exclusive use as school. No school, or portion thereof, shall be used for any residential purposes.

4 MCAR § 10.126 Requirements for school licensure.

A. Application contents. The person, association, firm, or corporation proposing to establish a cosmetology school shall make written application to the office, on forms supplied by the office, giving the following information:

1. the name of the school, its address, and the names and addresses of all owners and controlling officers;
2. notarized signatures of the owners, controlling officers, and managers;
3. the days of the week and the hours which the school will be open;
4. the daily and weekly class schedule;
5. evidence of the school's compliance with local fire, zoning, health, and building codes, or in the absence of local codes, with the corresponding state codes;
6. the name of the licensed manager who will be employed by the school, including that individual's license number and expiration date;
7. a roster of all instructors, including license number, designation of employment status (full-time or part-time) and days of the week and hours scheduled for instruction;
8. a diagram of the school drawn to scale on 8½" × 11" or 8½" × 14' paper, providing the dimensions of the school as a whole and designating the size and location of all entrances and exits, and the location and dimensions of all required areas and facilities;
9. a complete inventory of facilities and equipment supportive of instructional and clinical operations, as required by these rules;
10. a designation of the licenses for which preparation will be offered;
11. a detailed outline of the courses of training to be offered, designating the preclinical and clinical curriculum, text materials, and the clinical plan designed for each license category;
12. the maximum possible number of enrollees the school will be able to accommodate;
13. copies of all financial aid and refund policies;
14. copies of all student rules and disciplinary policies;
15. a copy of the standard enrollment contract;
16. copies of all written material used to solicit prospective students, including but not limited to tuition, refund, and fee schedules, catalogs, brochures, and all recruitment advertisements;
17. a current balance sheet, income statement, or evidence of sufficient financial worth to conduct a school and to meet its financial obligations.

B. Evidence of liability insurance coverage. The applicant shall provide evidence of the school's coverage by professional liability insurance, of at least \$25,000 per incident and an accumulation of \$75,000 for each premium year for each teaching station in the clinical operation of the school.

C. Evidence of worker's compensation insurance. The applicant shall provide evidence of the school's compliance with Minnesota Statutes, section 176.182.

D. Surety bond. The applicant shall file with the director of the office a continuous corporate surety bond in an amount equal to the full tuition for all of the maximum potential enrollees in the school, conditioned upon the faithful performance of all contracts and agreements with students made by the applicant. The bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is cancelled for breach of any contract or agreement made by the applicant with any student. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the full tuition for all of the maximum potential enrollees in the school. The surety of the bond may cancel it upon giving 60 days notice in writing to the director of the office and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation.

E. Payment of fee. The applicant shall pay the school license and school application fees.

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PROPOSED RULES

4 MCAR § 10.127 Facilities requirements for licensure.

In addition to the requirements of 4 MCAR §§ 10.125 and 10.126, the requirements contained in 4 MCAR §§ 10.128-10.131 shall be met by the school before a license will be issued. Compliance with these requirements shall be confirmed by an inspection by cosmetology unit staff. The license shall be issued after a satisfactory initial inspection.

4 MCAR § 10.128 Physical requirements.

A. Space.

1. There shall be a combined clinic and classroom size of at least 25 square feet for each enrollee to be accommodated. This space shall exclude all office space, storage areas, lounge facilities, and restrooms.

2. All supplies and materials shall be stored in a space inaccessible to the public.

3. The dispensary shall be a specified area inaccessible to the public.

4. There shall be a furnished student lounge of at least 120 contiguous square feet.

5. There shall be an instructors' lounge separate from the student lounge.

B. Entrances and exits. Each school shall have at least two entrance/exit points which meet state fire code requirements and local building code requirements. A school located in a basement shall not be allowed to use a window as one of the required exits.

C. Electrical requirements. Each classroom shall be clearly lit and shall have at least two electrical outlets. Use of extension cords shall not be an acceptable means of meeting this requirement.

D. Toilet facilities. Each school shall provide adequate toilet facilities on its premises or in an adjacent common area for the use of students, staff, and customers. Separate restroom facilities must be provided for women and men. Each facility shall meet the same requirements designated for those in salons in 4 MCAR § 10.113 F.3.

E. Additional requirements. In addition, each school shall meet the physical requirements for salons contained in 4 MCAR § 10.113 C.; D.; E.; F.1. and F.2.; and G.

4 MCAR § 10.129 Fixtures, furniture, equipment.

A school shall meet the following minimum requirements:

A. there shall be one work station with chair, storage, and mirror for each student assigned to the clinic floor;

B. there shall be at least one hair dryer, clean, in good repair, and operational, for each six work stations;

C. there shall be at least one facial chair, clean and in good repair, for each six enrollees. This may be a work station chair with a reclining back and attachable headrest;

D. there shall be at least one manicure table, clean and in good repair, for each ten enrollees;

E. there shall be at least one heat cap;

F. there shall be skin care machines or models or diagrams sufficiently detailed to allow instruction in their use and operation;

G. there shall be at least one adult-size desk/table and chair in the classroom area for each enrollee to be accommodated;

H. there shall be at least one time clock to be used by the students when checking in and out of school. Each student shall punch his or her own card at the beginning and end of each day and before and after lunch;

I. in addition, each school shall meet the fixture, furniture, and supply requirements for salons as designated in 4 MCAR § 10.114 B. and D.-K.; and

J. there shall be locker space available for students requesting it.

4 MCAR § 10.130 Supplies and materials.

A. Basic supplies.

1. The school shall supply each student with a beginning professional kit, containing the implements and the majority of equipment required for the course of training for which the student has enrolled. The cost shall be clearly indicated to the student prior to enrollment, even if it is included in the basic tuition fee.

2. The school shall provide the student with all supplies and materials necessary to perform all clinical services and classroom exercises.

3. The school shall supply at least one manikin with hair for each cosmetology enrollee, and one manikin without hair for each esthetician enrollee.

B. Towels and linens. There shall be one dozen towels per enrollee maintained in good repair and available to students.

C. Instructional materials. The school shall supply each enrollee with a copy of all textbooks to be used in the course of training, and copies of all other necessary instructional materials, including a copy of Minnesota Statutes, chapter 155A and these rules. Workbooks associated with the textbooks shall become the property of the student. The cost of these materials shall be clearly indicated to the student prior to enrollment, unless it is included in the tuition fee.

D. Instructional aids. The school shall have instructional aids to provide the required instruction to all enrollees. There shall be at least one bulletin board, located in the student lounge, which shall contain, but not be limited to, all communications addressed to the students from the office and copies of the student rules and disciplinary policies. There shall be at least one blackboard in each classroom.

E. Reference materials. Reference materials shall be centrally located and made available to all students, including:

1. an American language dictionary;
2. charts for basic anatomy (hair, skin, and nails);
3. trade magazines and publications;
4. a copy of Minnesota Statutes and rules pertaining to the regulation of the practice of cosmetology; and
5. copies of other related statutes and rules.

4 MCAR § 10.131 General operational requirements for schools.

It shall be the responsibility of the school owner and manager to ensure compliance with the requirements of A.-M.

A. Identification. Each school shall be identified as either a school of cosmetology, beauty school, beauty academy, beauty training center, or any other designation whereby the public may be able to distinguish it from a salon. Identification shall consist of signs conspicuously placed on the front of the school and in the reception area of the school clinic. Each school shall also have a sign conspicuously posted in its clinic reception area stating, "Beauty School. All work performed by students." in letters at least two and one-half inches in height.

B. Manager.

1. There shall be a manager responsible for each school at all times. There shall be only one person designated as manager for each school. No manager may concurrently be responsible for more than one school nor for a school and a salon. When the manager is not on duty, he or she shall specify a responsible person on the premises.

2. The manager shall ensure that all personnel and students under his or her supervision comply with all provisions of these rules.

3. The manager shall ensure that no unlicensed instructor conducts any class, demonstration, or any other educational experience within the school except as allowed by Minnesota Statutes, chapter 155A and these rules.

4. The manager shall ensure that all equipment required by these rules is clean and maintained in proper working condition, that proper supplies are in stock at all times, and that safety, sanitation, and operational requirements are met by the school. The manager shall be responsible for recruitment and advertising materials.

C. Instructors.

1. There shall be at least two licensed instructors on the school premises for the first 1 to 20 students to be accommodated and one additional licensed instructor for each additional 1 to 20 students to be accommodated.

a. A school may operate for 30 days per year with an unlicensed substitute for one of the licensed instructors, if the school manager is on the school premises and available to supervise the substitute, and if there is at least one licensed instructor, available and responsible for the direct supervision of the unlicensed substitute.

b. The school shall notify the office in writing within three days of each occurrence of failure to meet the required instructor quota.

2. If a school is not in compliance with C.1., students will be notified by the office that it will not accept hours accrued during the period of noncompliance.

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PROPOSED RULES

3. Instructors shall devote the entire time scheduled to training and shall have no additional noninstructional duties or responsibilities.

4. All instructors shall wear identification badges at all times while providing training, stating their full name and "Instructor." These badges shall be at least two inches by one inch and shall be color-coded white.

D. Enrollment contracts.

1. The student or his or her parent or guardian shall receive a fully executed copy of the contract at the time he or she signs the contract.

2. The school and a student who has enrolled for training because he or she failed the state examination and reciprocity applicants shall enter into a contract which specifies the precise nature of theory and clinical experience to be covered during the training course.

E. Refund policy.

1. Each school shall have a definite, written policy relating to the refund of tuition and fees when students terminate training. The policy shall at minimum provide for the following:

a. a complete refund of all monies paid if the school rejects the applicant, or if the applicant cancels the enrollment contract, in writing or in person, within three business days of the date upon which the contract was signed by both the student and agent of the school and prior to entering classes. The enrollment contract shall include a provision headed by the title in boldface ten-point type "Notice of Cancellation", which instructs the student as to what steps he or she must take to cancel the contract;

b. a refund of all monies paid except a registration or enrollment processing fee up to 15 percent of the contract price if the applicant cancels the enrollment contract more than three business days after conclusion of the contract but prior to entering classes;

c. if a student has entered classes the following minimum tuition refunds shall be made:

Percentage of Total Program Represented by the Hours of Training Completed.	Maximum Amount of Total Tuition School Shall Receive or Retain.
0 to 4.9 percent	20 percent
5 to 9.9 percent	30 percent
10 to 14.9 percent	40 percent
15 to 24.9 percent	45 percent
25 to 49.9 percent	70 percent
Over 50 percent	100 percent

2. Fees for the student kit, textbooks, and workbook may be deducted before application of the percentages in refund computations, if these fees are included in the tuition and if these items become the property of the student.

F. Student regulations. Student regulations shall be in writing and a copy shall be given to all students. A copy and any changes shall be posted on the bulletin board in the student lounge. The rules may include a reasonable dress code. All rule changes shall be discussed with the student body at least ten days prior to the effective date and each student shall be given a copy of any changes.

G. Student records.

1. All records relating to students shall be maintained and up-to-date, in a secure and orderly fashion and shall be kept on the school premises. All student records shall be legible and shall be available for inspection by a representative of the office during normal business hours of the school or by mail upon the written request of the office.

2. The school shall maintain complete, accurate, and detailed records of all payments from and financial transactions with students, showing the date, amount, and source of income or disbursement.

3. The school shall maintain daily and monthly records of student hours, work progress, examination assessments, and daily clinical experience records for each student enrolled.

4. All student records shall be maintained by the school for at least five years from the date of the student's termination; or a transcript of the course work of each student may be kept, the transcript to contain the student's name, the date student enrolled, the date of termination of enrollment and the circumstances of termination, the total number of hours completed, and the school owner or manager's notarized signature verifying the contents of the transcript.

5. The school shall submit to the office the following reports for each student:

a. a student registration form containing the student's full and correct name, course of training for which enrolled,

and start date. The status of the student shall be stated as full-time or part-time, day or night classes. This information must be received by the office within ten days of the student's start date and shall be accompanied by the processing fee;

b. evidence on a standardized form, from a physician, stating that the student is free from communicable diseases or parasites. This certification shall accompany the student registration;

c. certification of completion of preclinical courses. Documentation signed by the school owner or manager shall indicate that the student has successfully completed the required hours of preclinical work. A student shall not be allowed to perform any service or portion thereof in the school clinic on a client until this certification has been sent;

d. a progress evaluation report. Upon completion of one-half of the total required hours, the school shall give the student and the office a written progress evaluation assessing the student's progress towards successful fulfillment of the license requirements.

e. certification of readiness to take the written examination. Documentation signed by school owner or manager, shall indicate that the student has successfully completed 1,350, 500, and 315 hours, for cosmetologist, esthetician, and manicurist respectively, of preclinical and clinical training, and is prepared to take the written state licensing examinations. This certification must be received by the office before the student will be scheduled for the written examinations;

f. documentation signed by school owner or manager, shall indicate that the student has successfully completed the course of training for which he or she enrolled. Included shall be documentation of the student's completion of the practical exercises, as required by 4 MCAR § 10.133 B.4.a., C.4.a., and D.4.a. and documentation of the student's successful completion of the skills certification review, on a form provided by the office;

g. a statement shall be sent by the school to the office if a student withdraws, is suspended, or expelled from his or her course of training. The certification shall be signed by the school owner or manager, shall indicate the last day on which the student was enrolled, the total number of hours the student has successfully completed as of that date, a transcript detailing the nature of those hours, and the reason for the withdrawal, suspension, or revocation. This certification must be received by the office within ten days of the end of enrollment.

H. Certification of student hours.

1. All student hours shall be recorded, on a daily and a monthly basis.

2. The daily record of hours shall list the number of hours earned by each student and the nature of training received, designating all clinical experiences; shall be signed by the instructor who provided or supervised the training; shall be signed by the student; and shall be based on the hours actually recorded on the student's timecard.

Each student shall register on the timeclock at the beginning and end of each school day and at the beginning and end of lunch breaks. Timecards which are improperly punched or inadvertently altered, or contain any error may be corrected and that correction initialed by the student, the school manager, and the appropriate instructor.

Original timecards shall be deemed to be the property of the school. A student, within ten days of a request, is entitled to receive copies of his or her timecards from the school. The school may not withhold copies of his or her timecards after a proper request has been made.

3. Each school shall complete and maintain a monthly report for each student, summarizing the hours completed for that month, and signed by the school owner or manager. A copy of the report shall be given to the student within five days of the end of each month.

4. No school or student shall alter the content or the number of hours completed by a student unless because of error and signed by both parties.

5. Students shall receive credit only for hours spent in training for licensed cosmetology services.

6. No student shall receive credit for more than eight hours of training per calendar day.

7. Each student must be given a morning and afternoon break and at least one-half hour for lunch, or one hour for lunch and no breaks.

8. It shall be made clear to the students in materials designed to elicit their enrollment and at the time of enrollment, the circumstances under which Saturday and evening training will be held.

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PROPOSED RULES

I. Students to complete training in required time. Individuals registering as students in a school of cosmetology must complete their training, successfully pass the examination, and be licensed within a period of not more than five years. Otherwise, records of student hours and training received will no longer be considered valid for licensure in Minnesota.

J. Transfer students. A student shall apply to the office in writing for transfer of hours from one school to another. The office shall forward to the receiving school a certified copy of the previous school's certification of withdrawal, suspension or expulsion, or of the transcript of hours completed as indicated on that certification. No school shall give credit to a student for hours completed in another school without a certification of hours from the office or from a non-Minnesota licensing authority as to the total number of hours.

K. Full course of instruction required. No student, unless licensed under provisions of Minnesota Statutes, chapter 155A, shall be enrolled in a school for less than a full course of instruction of not less than 1,550 hours for cosmetologist, 600 hours for esthetician, or 350 hours for a manicurist, except for a licensed individual or a previously licensed individual requesting a refresher course, an applicant who has failed the state examination and requests additional training, a transfer student, a student who has enrolled only to learn unlicensed services, and reciprocity applicants who require additional schooling.

L. Display of licenses.

1. Current licenses of all school personnel shall be conspicuously posted in the reception area at approximately eye level. A two-inch by two-inch photograph of the licensee alone taken within the past three years shall be attached to each license.

2. The current school license shall be conspicuously posted with the personnel's licenses.

M. Pre-enrollment disclosures. If the school brochure does not contain the following information, it shall be given to prospective students along with the brochure and other materials designed to elicit their enrollment: minimum requirements for licensing in the fields in which the school offers instruction, tuition and all fees, the enrollment contract, refund policy, and student regulations.

4 MCAR § 10.132 Operational requirements for school clinics.

All instruction in school clinics and all work performed by students in school clinics shall comply with the operational requirements for a cosmetology salon in 4 MCAR § 10.116 A.1.-12. In addition:

A. no new school shall offer clinical services until the minimum preclinical hours required for students has been met;

B. no school shall be allowed to operate a student clinic at any location other than the school;

C. there shall be conspicuously displayed in the reception area of the school and its clinic a sign stating, "All services performed by students," in type at least 2½ inches in height;

D. instructors shall perform no cosmetology services on any client in the school clinic except to the extent necessary to demonstrate or instruct students. The student shall be physically present, observing the instruction or demonstration and shall participate in the learning experience by actual performance of the complete service;

E. no student shall perform clinic services until he or she has successfully completed the required hours of preclinical training and the school has sent to the office a certification of that completion;

F. all services performed by students shall be supervised by instructors and shall be checked before, during, and after performance;

G. all students shall be required to wear an identification badge at all times. The badges shall be at least two inches by one inch; state the student's first and last name; and state that the student is either a "Cosmetologist Trainee," "Esthetician Trainee," or "Manicurist Trainee." A freshman is a student who has not completed the required hours of preclinical training. A senior is a student who has completed the preclinical training. Freshman badges shall be green and senior badges shall be blue. Different shades of blue may be used to designate various degrees or levels of senior students. Badges shall be furnished by the school as part of tuition costs;

H. each student shall wash his or her hands with soap and hot water before providing any service, and each instructor shall similarly wash his or her hands before demonstrating any service or portion thereof on a client;

I. instructors shall ensure that students and instructors maintain the clinic work area in the same manner and degree as is required for salon cleanliness under 4 MCAR § 10.116 A.15;

J. instructors shall ensure that all students working in the school clinic and all instructors observe the same personal hygiene and safety requirements as those imposed on salon practitioners in 4 MCAR § 10.116 A.16;

K. cosmetology services shall not knowingly be performed in a school clinic on any person who has a communicable disease, condition, or parasite;

L. it shall be permissible for the school to charge clients for services performed by students to the extent necessary to cover the cost of supplies and materials used, and expenses incurred in and for the operation of the school. These prices shall be conspicuously posted in the clinic reception area.

4 MCAR § 10.133 School curricula.

A. Requirements. Each cosmetology school shall have a curriculum approved by the office to provide instruction, divided into daily lesson plans. The curriculum shall include theory and practical application of skills, including the instruction set forth in B.-E.

B. Cosmetologist training.

1. Cosmetologist training consists of a course of training of at least 1,550 hours. This course shall consist of the full manicurist course, the full esthetician course, and the balance in hairdressing.

2. The first 240 hours shall be preclinical instruction in the sciences of anatomy, dermatology, trichology, manicuring, and chemistry as related to cosmetology; electricity and light; sanitation; safety procedures related to the practice of cosmetology; and Minnesota Statutes and rules which pertain to the regulation of the practice of cosmetology.

3. There shall be instruction in applied science and skills in shampooing, scalp and hair conditioning, hair design and shaping, chemical hair control, hair coloring, hair styling, facials, and makeup, and manicuring and nail care.

4. There shall be planned clinical instruction and experience in the applied sciences.

a. Each student shall be required to complete the following minimum number of clinical exercises in each category:

(1) shampooing	300
(2) scalp and hair conditioning	150
(3) hair design shaping	75
(4) chemical hair control (including 6 chemical relaxing exercises)	60
(5) hair coloring	50
(6) hair styling	300
(7) facials and makeup	60
(8) manicures (including 10 applications of artificial nails, of which 3 are sculptured on the nail)	50

b. Documentation of the student's completion of the required quotas in each category shall be sent to the office with the documentation of successful completion of the entire course of training.

5. There shall be instruction in business practices and in the Minnesota laws regulating those practices and labor relations.

C. Esthetician training.

1. Esthetician training consists of a course of training of at least 600 hours.

2. The first 120 hours shall be preclinical instruction in the sciences of anatomy, dermatology, and chemistry as related to skin care; electricity and light; sanitation; safety procedures related to the practice of skin care; and Minnesota Statutes and rules which pertain to the regulation of the practice of skin care.

3. There shall be instruction in applied science and skills in the cleaning, conditioning, shaping, reinforcing, coloring, and enhancing of the skin quality through the use of facials and makeup.

4. There shall be planned clinical instruction and experience in the applied sciences.

a. Each student shall be required to complete at least 60 facials or makeup applications.

b. Documentation of the student's completion of the required facials or makeup applications shall be sent to the office with the documentation of successful completion of the entire course of training.

5. The requirements of B.5. shall be complied with.

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D. Manicurist training.

1. Manicurist training consists of a course of training of at least 350 hours.
2. The first 50 hours shall be preclinical instruction in the sciences of anatomy, dermatology, and chemistry as related to manicuring; electricity and lights; sanitation; safety procedures related to the practice of manicuring; and Minnesota Statutes and rules which pertain to the practice of manicuring.
3. There shall be instruction on applied science and skills in the cleaning, conditioning, shaping, reinforcing, coloring, and enhancing of nails and in the application and repair of artificial nails.
4. There shall be planned clinical instruction and experience in applied sciences and skills.
 - a. Each student shall be required to complete at least 50 manicures, including at least ten applications of artificial nails, of which three are sculptured applications on the nail.
 - b. The documentation of the student's completion of the required manicures shall be sent to the office with documentation of successful completion of the course of training.
5. The requirements of B.5. shall be complied with.

E. Refresher course. A licensed cosmetology school, salon, or a professional association may plan and offer a refresher course taught by licensed instructors of at least 40 hours in length for cosmetologists, estheticians, and/or manicurists. The course shall focus on knowledge, skills, and product types related to chemical services and shall balance lectures, demonstrations, and clinical experiences. It shall be held in a licensed salon or school. Sponsors of a proposed course shall apply for office approval at least 45 days prior to the course date. The application shall be on a form provided by the office. The course sponsor shall pay the processing fee. The course sponsor shall provide the office with the name and license number of all individuals who successfully pass a final course examination.

F. Credit towards another license. A licensed esthetician or manicurist who received his or her training within the last five years may receive the following credit for that training toward another license:

1. esthetician training = 550 hours credit toward cosmetologist license;
2. manicurist training = 300 hours credit toward a cosmetologist license;
3. manicurist training = 200 hours credit toward an esthetician license;
4. esthetician training does not produce any credit toward a manicurist license.

4 MCAR § 10.134 Requirements for maintaining a school license.

A. Display of documents. Each school license and all personnel licenses shall be conspicuously displayed in the school or school clinic reception area. A copy of the school's most recent inspection report shall be conspicuously posted at approximately eye level in the clinic reception area.

B. Notification of changes in license information. Each school shall notify the office within 30 days of the effective date, unless otherwise indicated below, and in writing, of all alterations, additions, and deletions in the information contained in its original license application, and supply current information, including but not limited to:

1. changes in managerial or instructional staff including additions and terminations, or changes in employment status (full-time, part-time, or number of hours worked). The school shall notify the office of all such changes within three days of the effective date of the change;
2. changes in any written material and advertising used to solicit prospective students;
3. changes in the education services or course of training offered, the curriculum, text materials, or clinical experience plan;
4. remodeling or significant alteration of the physical plant in which the school is housed;
5. the most current balance sheet, income statement, or evidence of financial worth shall be submitted to the office on January 1 of each year.

C. Retention of ad copies. The school shall maintain copies of all advertisements for clinic services for three years. They shall be provided to the office at its request.

4 MCAR § 10.135 School license renewal.

All of the following requirements shall be met in order to renew a license:

- A. the licensee shall be responsible for requesting renewal of his or her school license, in writing, before that license expires.

This may be accomplished on the license renewal notice form provided by the office. However, if this renewal notice is not received, it is still the licensee's responsibility to properly renew the school license;

- B. the licensee shall provide evidence of continued professional liability insurance coverage in the required amount;
- C. the licensee shall provide evidence of continued compliance with Minnesota Statutes, section 176.182;
- D. all unsatisfactory inspections report items shall be corrected before a license will be renewed;
- E. the licensee shall provide a current and complete roster of manager and instructional staff, including license number and expiration date, employment status, and days and hours scheduled to work;
- F. the licensee shall have filed with the director of the office a surety bond as required by 4 MCAR § 10.126 D.;
- G. the licensee shall pay the required license fee, before the expiration of the current license; and
- H. the postmark date on the transmittal envelope of the renewal request and fee shall be determinative in ascertaining whether receipt was prior to the current license expiration date.

4 MCAR § 10.136 Delinquent school license.

Failure to renew a school license prior to its expiration date shall result in a delinquent license. The applicant shall comply with the following:

- A. if less than 30 days have elapsed since the expiration date of the license, the applicant shall submit a written application for renewal of license, the license fee, and the required late penalty;
- B. if more than 30 days have elapsed since the expiration of the license, the licensee shall reapply for a school license as if no license had been previously issued. The school's operation without a valid license shall be a violation of the law and no student training provided during that period will be recognized by the office.

4 MCAR § 10.137 Advanced training and demonstrations.

It is permissible to offer instruction in cosmetology in a place other than a licensed school of cosmetology in the following situations:

- A. an advanced training class or demonstration, if no clinic services are offered to the public incidental to the training or demonstration;
- B. community education classes, as defined by Minnesota Statutes, chapter 155A.

4 MCAR § 10.138 Certificate of identification.

A. Issuance. Upon written request to the office, a licensee may be issued a certificate of identification authorizing his or her lawful practice in a place other than a licensed salon. To obtain the certificate, the individual shall:

1. hold a current Minnesota cosmetologist, manicurist, or esthetician license;
2. provide documentation to the office of at least 2700 hours of lawful practice in Minnesota;
3. provide documentation of current employment in a Minnesota licensed cosmetology or manicuring salon; and
4. attest that the services shall be provided only in a licensed health care facility, or in the residence of a home-bound individual.

B. Retention. The certificate shall remain with the salon manager at all times except when work is actually being performed outside the shop. It is the manager's responsibility to ensure that use conforms to the restrictions of A.4.

C. Observance of health and safety procedures. The licensee shall observe all sanitary and safety procedures as far as reasonably possible.

4 MCAR § 10.139 Fee adjustments.

A. Refunds. Refunds shall be given in the following situations: overpayment; death or permanent disability before license effective date; or an individual's ineligibility for licensure. Ineligible instructor and manager applicants shall be refunded the license fee only. Ineligible cosmetologist, manicurist, or esthetician applicants shall be refunded the license fee minus the processing fee.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

B. Other licenses. A licensee who applies for licensing in a second category shall pay the full license fee for the second category of license.

4 MCAR § 10.140 Fee schedule.

A. Three-year license fees.

1. Cosmetologist, manicurist, esthetician	\$ 30
2. Instructor, manager	45
3. Salon, booth	50
4. School	750

B. Penalties.

1. Late penalty	
a. School license renewal	100
b. Salon and booth license renewal	50
c. Individual license renewal	10
2. Reinstatement	30
3. Insufficient funds checks	10
4. Reinspection fee	Variable
5. Manager with lapsed practitioner	25

C. Administrative fees.

1. Duplicate license (includes individual name or address change)	10
2. Certificate of identification	20
3. Examination fees	
a. Written exam (cosmetologist, manicurist, esthetician)	8
b. Written exam (manager or instructor)	12
c. Practical exam	18
4. Processing fee (covers student enrollment, course evaluation, verification of hours/training experience, restoration of lapsed license, salon name change)	15
5. School name change	100
6. School original application	150

4 MCAR § 10.141 Duplicate license.

A duplicate license will be issued only upon the loss or destruction of the initial license. The licensee shall submit to the office an affidavit indicating why a duplicate license is required, and submit the required fee.

4 MCAR § 10.142 Intoxicants and controlled substances.

No licensee or student shall perform cosmetology services while consuming or under the influence of an intoxicant or controlled substance, or serve them to a client during business hours.

4 MCAR § 10.143 Compliance by present licensees and students.

A. General requirements. All individual licenses in effect on the effective date of these rules shall continue to be valid under the following circumstances.

1. cosmetologist, manicurist, and esthetician licenses shall be valid until their expiration date. Licenses which expire before July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A. and C.-F. Licenses which expire on or after July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A., B.1., and C.-F.;

2.

a. Senior instructor licenses shall be renewed as instructor licenses. Licenses which expire before January 1, 1988 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A. and C.-F. Licenses which expire on or after January 1, 1988 shall be renewed upon compliance with 4 MCAR § 10.105 A., B.2., and C.-F.

b. In addition to the requirements of 2.a., all individuals holding licenses as senior instructor or instructor shall comply with the requirements of 4 MCAR § 10.102 D.2. on or before December 31, 1984. Failure to do so shall result in revocation of license;

3. Junior instructors licensed on the promulgation date shall comply with the instructor license requirements of 4 MCAR § 10.102 A., D.1., D.3., and D.5. on or before December 31, 1983. Upon completion of these requirements they shall be issued an instructor license which shall remain valid in accordance with the provisions of 2.a.-b.;

4.

a. Current salon manager licenses shall remain valid until expiration. Licenses expiring before July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A. and C.-F. Licenses expiring on or after July 1, 1984 shall be renewed upon compliance with the requirements of 4 MCAR § 10.105 A., B.3., and C.-F.

b. In addition to the provisions of 4.a., licenses of managers of schools shall be conditioned upon the licensee's successful passage of a written examination covering Minnesota laws and rules related to cosmetology schools before December 31, 1983;

5. Salons and booths licensed on April 1, 1983 shall be exempt from the following provisions:

a. Rule 4 MCAR § 10.113 A.-B.; D.2. until replacement; F.3. provided that the toilet facilities are used for no other purposes, the door is kept closed, the room is clean and sanitary, and it contains a commode, lavatory, soap dispenser, single service sanitary towels, and a waste basket; G. until July 1, 1984.

b. Rule 4 MCAR § 10.114 B.;

c. Rule 4 MCAR § 10.117 A. continuous footage provision only; E.2. permanent solid partition requirement only; E.3.; E.6. provided that the toilet facilities meet the requirements of A.5.a. of this section.

d. Rule 4 MCAR § 10.118 B. square footage requirement and lease provision requirements until expiration of current lease;

6. Schools licensed on April 1, 1983 shall be exempt from the following provisions:

a. Rule 4 MCAR § 10.128 A.4.-5.; D. provided that there are separate toilet facilities for men and women and that they meet the requirements of A.5.a. of this rule; E. school shall have the same time extensions for compliance with 4 MCAR § 10.113 D.2. and G. as provided for salons in A.5.a. of this rule.

b. Rule 4 MCAR § 10.129 I. exemption from requirements of 4 MCAR § 10.114 B.; J. until December 31, 1983.

c. Rule 4 MCAR § 10.130 A.1., A.3., and C. shall apply to students enrolling on or after April 1, 1983.

d. Rule 4 MCAR § 10.131 B.-F.; G.5.f. with regard to practical exercises; H.8.; and K., shall be effective July 1, 1983.

e. Rule 4 MCAR § 10.133 shall be effective July 1, 1983.

B. Interpreter for certain students. Foreign language students whose enrollment registration is on file in the office on the effective date of these rules may use an interpreter at the examinations.

Effective dates. Rules 4 MCAR §§ 10.106; 10.107; 10.110; 10.111; 10.112; 10.113; 10.114; 10.115; 10.116; 10.117; 10.118; 10.119; 10.120; 10.121; 10.125; 10.126; 10.127; 10.128; 10.129; 10.130; 10.131; 10.132; 10.134; 10.135; 10.136; 10.137; 10.138; and 10.142, are effective April 1, 1983.

Rules 4 MCAR §§ 10.102; 10.103; 10.104; 10.105; 10.108; A.-C.; 10.109; 10.122; 10.123; 10.124; and 10.133, are effective July 1, 1983.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

SUPREME COURT

Decisions Filed Friday, October 15, 1982

Compiled by John McCarthy, Clerk

81-1025, 81-1050 *Furley Sales and Associates, Inc. v. North American Automotive Warehouse, Inc.*, Defendant, Martin M. Fiterman, Appellant (81-1050) C. Richard Brisbois, Appellant (81-1025). Hennepin County.

In an action against an officer and principal shareholder of a corporation and a third party, the evidence was insufficient to sustain the jury's verdict.

An officer and principal shareholder of a corporation is shielded from personal liability in tort for interference with the corporation's contract if he merely causes the corporation not to perform its contract.

An attorney for a corporate officer or for the corporation who is acting outside the scope of his authority does not possess the immunity from persona tort liability which the law affords a corporate shareholder or officer acting for the corporation.

An attorney who interfered with the contractual relationships between a corporation and its employee did not sustain his burden in showing justification for the interference.

Evidence was sufficient to sustain the jury's award of compensatory and punitive damages.

Affirmed in part, reversed in part and remanded. Kelley, J. Took no part, Coyne, J.

82-141 *State of Minnesota v. Marie K. Michaeloff*, Appellant. Ramsey County.

Evidence that defendant committed theft was sufficient, and trial court did not err in refusing to admit polygraph test results offered by defendant to corroborate her credibility as a witness.

Affirmed. Kelley, J.

Decision Filed October 5, 1982

82-868 *In the Matter of the Welfare of R.H.*, petitioner, Appellant, v. Donald Hambergren, Superintendent, Hennepin County Juvenile Center. Hennepin County.

Due process does not require automatic juvenile court hearing to review decision by Court Services employees refusing to allow preadjudicatory-hearing juvenile detainee to participate in Home Detention Program.

Affirmed. Yetka, J.

Decisions Filed October 6, 1982

82-341 *Leon Roland Pitschneider*, petitioner, Appellant, v. State of Minnesota. Scott County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-352 *Douglas E. Weinandt*, Appellant, v. State of Minnesota. Murray County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-407 *Russell R. Brown*, petitioner, Appellant, v. State of Minnesota. Hennepin County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-408 *Donald L. Bell*, petitioner, Appellant, v. State of Minnesota. Hennepin County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-446 *Terrance W. Buckanaga*, Appellant, v. State of Minnesota. Hennepin County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-669 Michael A. Johnson, Appellant, v. State of Minnesota. Freeborn County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-899 State of Minnesota, Appellant, v. Gordon Allen Fratzke. Mille Lacs County.

Prosecutor generally must remove self from prosecution of case at trial in which he expects to testify as a witness for the state; ordinarily the defendant cannot force prosecutor's removal simply by stating that he plans to call the prosecutor as a defense witness.

Reversed and remanded for trial. Simonett, J.

Decisions Filed October 11, 1982

82-180, 82-300 State of Minnesota, Appellant, v. 82-180 Daniel William Olson, and State of Minnesota, Appellant, v. 82-300 Robert Peter Cundy. St. Louis County and Ramsey County.

The separation of powers doctrine mandates that power given to prosecutor by Minn. Stat. § 609.11, subd. 8, to initiate sentencing without regard to statutory mandatory minimum sentence must also be given to the courts.

In order to effectuate the subdivision's paramount purpose of moderating the harsher sentencing law, accepted rules of statutory construction require interpretation of subdivision as impliedly giving to the courts as well as the prosecutor the power to initiate sentencing below the minimum.

Affirmed. Amdahl, C. J.

82-501 John G. Troyer, petitioner, Appellant, v. State of Minnesota. Hennepin County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-564 Clifford Djonne, petitioner, Appellant, v. State of Minnesota. Hennepin County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Energy, Planning and Development Office of Local Government

Notice of Request for Proposals for Technical Assistance Services

The Office of Local Government is seeking proposals from qualified individuals or organizations to provide technical assistance services to local units of Local government in Regions 4, 7W and 10 on the Small Cities Community Development Block Grant Program.

The technical assistance services provided must be designed to improve the capacity of local units of government in Regions 4, 7W and 10 to plan, develop and administer a Small Cities project. The estimated amount of the contract will not exceed \$36,000.00. Responses must be in writing and received by 5:00 p.m., November 19, 1983 by the Office of Local Government.

STATE CONTRACTS

To obtain a copy of the guidelines for this proposal, call or write:

Michael Auger
Department of Energy, Planning and Development
Room 100, Hanover Building
480 Cedar Street
St. Paul, MN 55101
(612) 296-2394

Metropolitan Council Parks and Open Space Division

Contract for Administration of a Mail Survey

The Parks and Open Space Division of the Metropolitan Council announces availability of a contract for administration of a recreation survey by mail to approximately 4,700 households in the seven-county Twin Cities Metropolitan Area. The contract period will be approximately January through June 1983. Selection will be based on response to the Council's Request for Proposals, a copy of which is available from Charles Smith at (612) 291-6522. Demonstrated expertise in administration of large scale mail surveys will be a prime criterion for selection. Deadline for submission of proposals is November 12.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration

Notice of State Surplus Property Sale

In compliance with Minnesota Statutes § 94.09, *et seq.*, the Commissioner of Administration offers for sale by sealed bid two parcels totaling about 36 acres. Formerly used as a forestry station by the DNR, the parcels are located about a mile east of Alborn and 25 miles northwest of Duluth on St. Louis County Road No. 47.

For purposes of disposition, the property has been divided into two tracts. The legal descriptions and brief physical descriptions of the two parcels are as follows:

TRACT A—In St. Louis County, Minnesota, that part of the Northeast Quarter of the Northwest Quarter (NE¼NW¼) of Section 30, Township 52 North, Range 17 West, lying north of St. Louis County Road No. 47, comprising 13.95 acres, more or less, subject to a lease for roadway purposes, which lease expires on October 31, 1983. Tract A is improved with a 1066± sq.ft. one-story, frame residence, a 4-stall frame garage, and a 20 × 60 storage shed. Appraised value and minimum acceptable bid is \$29,200. Bids in a lesser amount will not be accepted.

TRACT B—In St. Louis County, Minnesota, that part of the Northeast Quarter of the Northwest Quarter (NE¼NW¼) of Section 30, Township 52 North, Range 17 West, lying south of St. Louis County Road No. 47, comprising 22.35 acres, more or less. The land is wooded and unimproved. Appraised value and minimum acceptable bid is \$6000. Bids in a lesser amount will not be accepted.

The property will be made available for inspection by appointment only. Arrangements for showing may be made by contacting:

John Dowd, District Forester
Cotton, Minnesota, Telephone (218) 482-3219

or

Pete Hengel
Regional Field Services Supervisor
Grand Rapids, Minnesota, Telephone (218) 327-1706

The bids will be opened and read aloud publicly at Room G-22 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155 on November 23, 1982 at 2:30 p.m.

Bidders shall be required to submit a cashier's check with their bids in an amount not less than 10% of the bid. The checks of unsuccessful bidders will be returned.

The successful bidder will have the choice of making payment of the balance remaining after the down payment by one of the following two methods:

1. Payment in full of the balance no later than February 23, 1983; or
2. Payment of the remaining balance in not less than equal annual installments for not to exceed 5 years, with principal and interest payable annually in advance at the rate of 11% per annum on the unpaid balance, by certified check or cashier's check payable to the State Treasurer on or before June 1 of each year.

Bids will be accepted only if submitted on forms supplied by the state. For complete information and bid forms contact:

Real Estate Management Division
Department of Administration, Room G-22
50 Sherburne Avenue
St. Paul, Minnesota 55155
Telephone: (612) 296-6674

Capitol Area Architectural and Planning Board Advisory Committee

Notice of Vacancy

There currently are two vacancies on the Advisory Committee to the Capitol Area Architectural and Planning Board (CAAPB), the state body responsible for the preservation and enhancement of Minnesota's Capitol Area. This committee advises the board on all architectural and planning matters.

One of these vacancies will be filled by the Minnesota Society of the American Institute of Architects, the second by the Capitol Area Board itself. This notice refers to the committee vacancy to be filled by the board.

The Capitol Area Board is requesting letters of interest and resumes from any architect with at least ten years of professional experience who would like to provide public service to the State of Minnesota by serving on this committee.

The committee is composed of three architects or planners who advise the board and staff on all architectural and planning matters.

The board is composed of appointees of the governor, mayor of St. Paul, and Minnesota Legislature. The lieutenant governor serves as chairperson. The board is responsible for the architecture, historic preservation, land use planning, zoning, and design review within the Capitol Area of St. Paul.

The primary duties of the Advisory Committee are to attend bimonthly board meetings and to provide consultation and professional advice to the board and its staff on all architectural and planning matters.

By law members of the Advisory Committee are ineligible for all commissions and professional consulting work for projects within the Capitol Area during the term of their service.

This appointee will serve for a term of two years, with the possibility of reappointment.

Advisory Committee members are compensated for their service at the hourly rate of \$50.00 for authorized time spent on CAAPB matters. Direct expenses are reimbursed according to state regulations. Committee members are expected to be informed on all issues relating to the role and function of the Board.

OFFICIAL NOTICES

Architects with ten years professional experience are requested to submit a letter of interest indicating their qualifications and a resume to Gary Grefenberg, Executive Secretary, CAAPB, Room 400 SW, State Office Building, St. Paul, Minnesota 55155. Please provide five copies of all materials submitted. Letters must be postmarked no later than November 10, 1982.

The CAAPB will notify by November 19, 1982, those candidates it wishes to interview, with final selection now scheduled for December.

State Department of Education Instruction Division

Notice of Public Meeting

The Minnesota Special Education Advisory Council will hold a one and one-half day meeting on November 1st and 2nd, 1982. The meeting is scheduled to begin at 9:00 a.m. on the 1st in Meeting Room B of the Sheraton-Midway Hotel at Hwy. I-94 and Hamline Ave. in St. Paul. Agenda items include: Review of Input Received at Regional Meetings on the State Department of Education Special Education Rule Revision Proposal; Summary of 81-82 Monitoring, Complaint and Hearing Issues; Current Status of Proposed P.L. 94-142 Regulations; and Planning Activities For Services For Low-Incidence and Severely Handicapped Programs.

For additional information contact Barbara S. Burke, Special Education Section, at (612) 296-8588.

Department of Finance

Notice of Maximum Interest Rates for Municipal Obligations in November

Pursuant to Laws of Minnesota 1982, Chapter 523, Commissioner of Finance, Allan L. Rudell, announced today that the maximum interest rate for municipal obligations in the month of November will be eleven (11) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to twelve (12) percent per annum.

The maximum interest rate for obligations authorized by resolution prior to April 1, 1982 shall be twelve (12) percent per annum.

Department of Natural Resources

Commissioner's Order No. 2134 Reserving, Designating and Managing Certain Waters for their Primary Wildlife Use and Benefit, Superseding Commissioner's Order No. 2067

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, upon proper published notices and public hearings held, hereby prescribe that the following lakes be reserved, designated and managed for their primary wildlife use and benefit, particularly for waterfowl and aquatic furbearers.

<u>Lake</u>	<u>County</u>	<u>Location</u>
Perch	Blue Earth	T. 106 N., R. 25, 26 W.
Cottonwood	Blue Earth	T. 106 N., R. 25 W.
Eagle	Blue Earth	T. 108, 109 N., R. 25, 26 W.
Buffalo	Waseca	T. 107 N., R. 24 W.
Rice	Faribault	T. 104 N., R. 27 W.
Bear	Freeborn	T. 101 N., R. 22 W.
Swan	Nicollet	T. 109, 110 N., R. 28, 29 W.
Lower Twin	Freeborn	T. 101 N., R. 22 W.
Heron	Jackson	T. 103, 104 N., R. 36, 37 W.
Pierce	Martin	T. 102 N., R. 31 W.
Geneva	Freeborn	T. 104 N., R. 20, 21 W.
Upper Twin	Freeborn	T. 101, 102 N., R. 22 W.

OFFICIAL NOTICES

Pelican
Patterson
Goose
Rice
Sanborn
Big Rice

Wright
Carver
Waseca
Blue Earth
LeSueur
Cass

T. 120, 121 N., R. 24, 25 W.
T. 116 N., R. 25 W.
T. 107 N., R. 22 W.
T. 107 N., R. 25 W.
T. 112 N., R. 23 W.
T. 140, 141 N., R. 26 W.

Commissioner's Order No. 2067 is hereby superseded.

Dated at Saint Paul, Minnesota, this 8th day of October, 1982.

Joseph N. Alexander, Commissioner
Department of Natural Resources

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State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action. House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

Legislative Reference Library
Room 111 Capitol

Interoffice